Griffin Security Agency, Inc. d/b/a The Griffin Security Agency *and* Special and Superior Officers Benevolent Association. Case 2–CA–39687

February 25, 2011

DECISION AND ORDER

BY CHAIRMAN LIEBMAN AND MEMBERS PEARCE AND HAYES

The Acting General Counsel seeks a default judgment in this case on the ground that the Respondent has failed to file an answer to the amended complaint. Upon a charge filed by the Union on January 12, 2010, the Acting General Counsel issued the amended complaint on October 25, 2010**,** against Griffin Security Agency, Inc. d/b/a The Griffin Security Agency, the Respondent, alleging that it has violated Section 8(a)(5) and (1) of the Act. The Respondent failed to file an answer.

On December 17, 2010, the Acting General Counsel filed a Motion for Default Judgment and a Memorandum in Support of Motion with the Board. Thereafter, on December 21, 2010, the Board issued an order transferring the proceeding to the Board and a Notice to Show Cause why the motion should not be granted. The Respondent filed no response. The allegations in the motion are therefore undisputed.

The National Labor Relations Board has delegated its authority in this proceeding to a three-member panel.

Ruling on Motion for Default Judgment

Section 102.20 of the Board's Rules and Regulations provides that the allegations in a complaint shall be deemed admitted if an answer is not filed within 14 days from service of the complaint, unless good cause is shown. In addition, the amended complaint affirmatively stated that unless an answer was received by the Regional Office by November 8, 2010, the Board may find, pursuant to a motion for default judgment, that the allegations in the amended complaint are true. Further, the undisputed allegations in the Acting General Counsel's motion disclose that the Region, by letter and email dated November 16, 2010, notified the Respondent that unless an answer was received by November 23, 2010, a motion for default judgment would be filed. The Respondent failed to file an answer.

In the absence of good cause being shown for the failure to file an answer, we grant the Acting General Counsel's Motion for Default Judgment.

On the entire record, the Board makes the following

FINDINGS OF FACT

I. JURISDICTION

At all material times, the Respondent, a New York State corporation, with an office and place of business located at 80 Maiden Lane, New York, New York, is engaged in the business of providing security services to companies in and around the New York City metropolitan area.

Annually, in the course and conduct of its operations, the Respondent receives goods and products valued in excess of $50,000 from businesses located inside the State of New York, which themselves receive goods and products directly from entities located outside the State of New York.

We find that the Respondent is an employer engaged in commerce within the meaning of Section 2(2), (6), and (7) of the Act and that the Union, Special and Superior Officers Benevolent Association, is a labor organization within the meaning of Section 2(5) of the Act.

II. ALLEGED UNFAIR LABOR PRACTICES

The following employees of the Respondent (the unit) constitute a unit appropriate for the purposes of collective bargaining within the meaning of Section 9(b) of the Act:

> All full-time and regular part-time uniform guards, including dispatchers presently employed and hereinafter employed throughout the five boroughs of New York City (Queens, Brooklyn, Staten Island, Bronx, and Manhattan), Westchester, Nassau and Suffolk counties, including Sergeants, Lieutenants and Captains Supervisors (not as defined in the Act) and excluding all other personnel, including office clericals, professionals, and supervisors as defined in the National Labor Relations Act, as amended.

At all material times, the Union has been the designated exclusive collective-bargaining representative of the unit, and the Union has been recognized as the representative by the Respondent. This recognition has been embodied in successive collective-bargaining agreements, the most recent of which is effective from February 1, 2010, through January 31, 2013.

At all material times, based on Section 9(a) of the Act, the Union has been the exclusive collective-bargaining representative of the unit.

By letters dated September 11, October 14 and 22, 2009, the Union by its President Joseph Sciascia, repeatedly requested that the Respondent meet and bargain with regard to a successor collective-bargaining agreement.

About the middle of January 2010, by telephone, Union Recording Secretary Al Dooley repeated the Union's request to meet and bargain with regard to a successor collective-bargaining agreement.

Since about September 11, 2009, and continuing until about March 16, 2010, the Respondent failed and refused to meet and bargain with the Union as the exclusive collective-bargaining representative of its employees in the unit described above.

CONCLUSION OF LAW

By the conduct described above, the Respondent has been failing and refusing to bargain collectively and in good faith with the exclusive collective-bargaining representative of its employees in violation of Section 8(a)(5) and (1) of the Act, and has thereby engaged in unfair labor practices affecting commerce within the meaning of Section 2(6) and (7) of the Act.

REMEDY

Having found that the Respondent has engaged in certain unfair labor practices, we shall order it to cease and desist and to take certain affirmative action designed to effectuate the policies of the Act. Specifically, having found that the Respondent has violated Section 8(a)(5) and (1) by failing and refusing since about September 11, 2009, and continuing until about March 16, 2010, to meet and bargain with the Union, we shall order it to cease and desist. However, as the amended complaint allegations show that the Respondent's failure to bargain ended on March 16, 2010, and that the Respondent and the Union have reached a successor collective-bargaining agreement effective from February 1, 2010, through January 31, 2013, we shall not order the Respondent to meet and bargain with the Union with regard to such agreement.

ORDER[1]

The National Labor Relations Board orders that the Respondent, Griffin Security Agency, Inc. d/b/a The Griffin Security Agency, New York, New York, its officers, agents, successors, and assigns, shall

1. Cease and desist from

(a) Failing and refusing to meet and bargain collectively and in good faith with Special and Superior Officers Benevolent Association, as the exclusive collective-bargaining representative of the employees in the following appropriate unit:

> All full-time and regular part-time uniform guards, including dispatchers presently employed and hereinafter employed throughout the five boroughs of New York City (Queens, Brooklyn, Staten Island, Bronx, and Manhattan), Westchester, Nassau and Suffolk counties, including Sergeants, Lieutenants and Captains Supervisors (not as defined in the Act) and excluding all other personnel, including office clericals, professionals, and supervisors as defined in the National Labor Relations Act, as amended.

(b) In any like or related manner interfering with, restraining, or coercing employees in the exercise of the rights guaranteed them by Section 7 of the Act.

2. Take the following affirmative action necessary to effectuate the policies of the Act.

(a) Within 14 days after service by the Region, post at its facility in New York, New York, copies of the attached notice marked "Appendix."[2] Copies of the notice, on forms provided by the Regional Director for Region 2, after being signed by the Respondent's authorized representative, shall be posted by the Respondent and maintained for 60 consecutive days in conspicuous places, including all places where notices to employees are customarily posted. In addition to physical posting of paper notices, notices shall be distributed electronically, such as by email, posting on an intranet or an internet site, and/or other electronic means, if the Respondent customarily communicates with its employees by such means. Reasonable steps shall be taken by the Respondent to ensure that the notices are not altered, defaced, or covered by any other material. In the event that, during the pendency of these proceedings, the Respondent has gone out of business or closed the facility involved in these proceedings, the Respondent shall duplicate and mail, at its own expense, a copy of the notice to all current employees and former employees employed by the Respondent at any time since September 11, 2009.

[1] Consistent with our recently issued decision in *J. Picini Flooring*, 356 NLRB No. 9 (2010), we have ordered the Respondent to distribute the notice electronically if it is customarily communicating with employees by such means. For the reasons stated in his dissenting opinion in *J. Picini Flooring*, 356 NLRB No. 9, Member Hayes would not require electronic distribution of the notice.

[2] If this Order is enforced by a judgment of a United States court of appeals, the words in the notice reading "Posted By Order of the National Labor Relations Board" shall read "Posted Pursuant to a Judgment of the United States Court of Appeals Enforcing an Order of the National Labor Relations Board."

(b) Within 21 days after service by the Region, file with the Regional Director a sworn certification of a responsible official on a form provided by the Region attesting to the steps that the Respondent has taken to comply.

Dated, Washington, D.C. February 25, 2011

Wilma B. Liebman, Chairman

Mark Gaston Pearce, Member

Brian E. Hayes, Member

(SEAL) NATIONAL LABOR RELATIONS BOARD

APPENDIX

NOTICE TO EMPLOYEES
POSTED BY ORDER OF THE
NATIONAL LABOR RELATIONS BOARD
An Agency of the United States Government

The National Labor Relations Board has found that we violated Federal labor law and has ordered us to post and obey this notice.

FEDERAL LAW GIVES YOU THE RIGHT TO

Form, join, or assist a union

Choose representatives to bargain with us on your behalf

Act together with other employees for your benefit and protection

Choose not to engage in any of these protected activities.

WE WILL NOT fail and refuse to meet and bargain collectively and in good faith with Special and Superior Officers Benevolent Association, as the exclusive collective-bargaining representative of our employees in the following unit:

All full-time and regular part-time uniform guards, including dispatchers presently employed and hereinafter employed throughout the five boroughs of New York City (Queens, Brooklyn, Staten Island, Bronx, and Manhattan), Westchester, Nassau and Suffolk counties, including Sergeants, Lieutenants and Captains Supervisors (not as defined in the Act) and excluding all other personnel, including office clericals, professionals, and supervisors as defined in the National Labor Relations Act, as amended.

WE WILL NOT in any like or related manner interfere with, restrain, or coerce you in the exercise of the rights guaranteed you by Section 7 of the Act.

GRIFFIN SECURITY AGENCY, INC. D/B/A THE GRIFFIN SECURITY AGENCY